Docket 85918KNM
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Christopher J. Kralles, et al

BACKPRINTING ASSEMBLY FOR A PHOTOGRAPHIC PRINTER

Serial No. 10/728,628

Filed December 05, 2003

Group Art Unit: 2853
Confirmation No.: 9084

Examiner: Ly T. Tran

Mail Stop APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

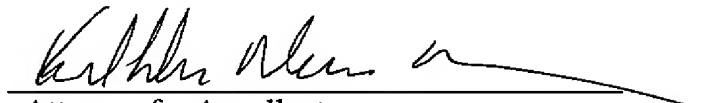
Sir:

APPEAL BRIEF TRANSMITTAL

Enclosed herewith is Appellants' Appeal Brief for the above-identified application.

The Commissioner is hereby authorized to charge any difference in the fee over that previously paid June 28, 2007, to Eastman Kodak Company Deposit Account 05-0225.

Respectfully submitted,



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Examiner: Manish S. SHAH

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APPEAL BRIEF PURSUANT TO 37 C.F.R. 41.37

Table Of Contents

Table Of Contents i
Real Party In Interest 1
Related Appeals And Interferences 1
Status Of The Claims 1
Status Of Amendments 1
Summary of Claimed Subject Matter 2
Grounds of Rejection to be Reviewed on Appeal 4
Arguments 5
Summary 9
Conclusion 10
Appendix I - Claims on Appeal 11
Appendix II - Evidence 17
Appendix III – Related Proceedings 18

APPELLANT'S BRIEF ON APPEAL

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's Rejection of claims 1-24, which was contained in the Office Action mailed 17 March 2008, reopening prosecution in reply to Applicants' Appeal Brief filed 25 September 2007 with a one-month Request for Extension of Time. Prior to filing the Appeal Brief, Applicants timely filed a Pre-Appeal Brief with a Notice of Appeal 28 June 2007, a response to which was sent by the Patent Office on July 24, 2007, indicating the case should proceed to the Board of Patent Appeals and Interferences. A Notice of Appeal is filed herewith.

Real Party In Interest

Eastman Kodak Company is the real party in interest.

Related Appeals And Interferences

No appeals or interferences are known which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

Status Of The Claims

Claims 1-24 are pending as originally filed, and are subject to appeal. Appendix I provides a clean, double spaced copy of the claims on appeal.

Status Of Amendments

The claims stand as originally filed, having never been amended. The Specification was amended by the filing of May 23, 2006. No amendments to the specification, claims, or drawings have been made since the Final Rejection.

Summary of Claimed Subject Matter

The independent claims pending are 1, 12, and 22, and are supported by the specification at least in the figures and specification as set forth below. There are no claims that are written using means-plus-function language.

1. A printing apparatus (15, Fig. 1) comprising:

a printing section (21, Fig. 1) adapted to print images on photographic media; and

an automatic backprinting assembly (100, Fig. 1) adapted to print information on a back side of photographic media (page 5, lines 20-23);

said automatic backprinting assembly comprising a movable ink jet printhead (102, Fig. 2) which is movable between at least a printing position to print on the back side of the photographic media and a priming position where the printhead is pressurized to force a stream of ink through discharge jets of the printhead (page 5, lines 24-30; page 6, line 8 – page 7, line 2; Figs. 2-5).

12. A backprinting assembly (100, fig. 1) adapted to print information on a backside of photographic media (page 5, lines 20-23), the backprinting assembly comprising:

a movable ink jet printhead (102, Fig. 2) which is movable between at least a printing position to print on the backside of the photographic media and a priming position where the printhead is pressurized to force a stream of ink through discharge jets of the printhead (page 5, lines 24-30; page 6, line 8 – page 7, line 2; Figs. 2-5).

22. A method of providing information on a backside of photographic media during a photographic printing process, the method comprising the steps of:

inserting photographic media into a photographic printer (page 4, line 23 – page 5, line 2);

printing an image onto a frontside of the photographic media (page 5, lines 2-7, 17-20);

backprinting information onto a backside of the media by positioning a printhead in a printing position and directing ink from said printhead onto the backside of said media (page 5, lines 17-23);

moving the printhead from said printing position after a predetermined period of time to a priming position where discharge jets of said printhead face an enclosure (page 5, lines 24-30; page 6, lines 8-10; page 8, lines 3-5; page 9, lines 18-23);

pressurizing said printhead while in said priming position to force a stream of ink through the discharge jets of the printhead and into said enclosure; (page 8, lines 5-7; page 9, lines 7-12, Fig. 7) and

moving said printhead back to said printing position (page 8, lines 12-14, Fig. 4).

Grounds of Rejection to be Reviewed on Appeal

The following issues are presented for review by the Board of Patent Appeals and Interferences:

1. Claims 1, 12, and 22 are rejected under 35 USC 103(a) over Lin (USPN 5,764,263) in view of Kimura (US 2004/0189742);

2. Claims 2,3, 6-11, 13-21, 23, and 24 are rejected under 35 U.S.C. 103(a) over Lin (USPN 5,764,263) in view of Kimura (US 2004/0189742) and further in view of Ishiguro (JP 09-001827); and

3. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) over Lin in view of Kimura (US 2004/0189742) and Ishiguro (JP 09-001827) as above, and further in view of Watanabe (EP 435276).

Arguments

1. Description of the Claimed Invention

The claimed invention features a backprinting assembly, or method of using the same, wherein the backprinting assembly is a movable ink jet printhead which is movable between at least a printing position to print on the back side of the photographic media, and a priming position where *the printhead is pressurized* to a prime pressure sufficient to force a stream of ink through discharge jets of the printhead such that dried ink and debris are ejected through the discharge jets of the printhead, as described at least on page 8, lines 5-9. That is, the force removing the debris and dried ink comes from within the printhead.

2. Claims 1, 12, and 22 under 35 USC 103(a) over Lin in view of Kimura

Claims 1, 12, and 22 are rejected under 35 USC 103(a) over Lin (USPN 5,764,263) in view of Kimura (US 2004/0189742). The Examiner has failed to present a *prima facie* case of obviousness for at least the following reasons.

Appellants note this rejection as it pertains to claim 1 is maintained identical to that addressed in Appellants' previously filed Appeal Brief. No new reasoning has been presented by the Examiner. Further, the same feature relied on by Appellants in claim 1 to distinguish over the cited art is also recited in claims 12 and 22.

As argued in the previously filed Appeal Brief, Lin is directed to an ink jet printing device that is designed to reduce curl of printed paper by printing either a colorless or colored ink on a backside of the paper. Lin does not disclose or suggest moving of either the front or backside printhead to a non-printing position, priming of a printhead, or pressurizing a printhead. This is ***admitted*** by the Examiner at least at page 3 of the Final Office Action, wherein the Examiner states that Lin "fails to teach the movable ink jet print head which is movable between at least a printing position to a priming position where the print head is pressurized to force a stream of ink through discharge jets of the print head."

Kimura, as shown at least in Figs. 1 and 11 and described at least at paragraph 0081, discloses pressurizing ***pressure control tank 6*** to force ink through pipe line 5 to ink jet head 2 and out from nozzle 10. The pressure is applied to the ink in pressure control tank 6, not ink jet head 2. Thus, Kimura does not disclose or suggest pressurizing a printhead to force ink therethrough as set forth in claim 1.

The Examiner's only response to Appellants' previously filed arguments, found at pages 6-7 of the 17 March 2008 Office Action, is as follows:

> ... Applicant argued that Kimura does not teach pressurizing a print head to force ink therethrough. ***Kimura discloses pressurizing pressure control tank 6 to force ink through in pressure control tank to the head and out from the nozzle. The pressure is not directly applied to the head.*** However, applicant just claiming that "the printhead is pressurized to force a stream of ink...", nothing in the claim recites that the pressure must applied [sic] directly to the print head. ***To overcome the present rejection applicant must claim that pressurize [sic] the printhead directly*** without having intermediate stuff. (Emphasis added.)

This response is nearly identical to the Examiner's comments from the Final Office Action of 16 May 2007, at page 7, that:

> Applicant argues that Kimura does not teach pressurizing a print head to force ink therethrough. This argument is not persuasive because ***Kimura discloses pressurizing pressure control tank 6*** to force ink through in pressure control tank to the head and out from the nozzle. ***The pressure is not directly applied to the head*** but through the tank to force the ink out. However, nothing in the claim recites that the pressure must apply directly to the print head. (Emphasis added.)

Appellants note that the Examiner ***admits*** in both responses that Kimura ***does not apply pressure directly to the printhead***, but that Kimura applies pressure to the control tank to provide pressurized ink. The Examiner thus ***agrees*** with Appellant that Kimura does not disclose or suggest the feature it is expressly relied on for teaching (see, for example, 17 March 2008 Office Action, page 4, "Kimura teaches the movable ink jet print head ... where the print head is pressurized to force a stream of ink through discharge jets of the print head...")

In contrast to the Examiner's repeated statement that "nothing in the claim recites that the pressure must apply directly to the print head," Applicants' claim 1 recites in part:

> said automatic backprinting assembly comprising a movable ink jet printhead which is movable between at least a printing position to print on the back side of the photographic media and a priming position ***where the printhead is pressurized*** to force a stream of ink through discharge jets of the printhead. (Emphasis added.)

Applicants clearly claim a ***pressurized print head***, which the Examiner ***admits*** at pages 3 and 7 of at least the final Office Action is not taught by either Lin or Kimura. Appellants note the specification also discloses pressurizing the printhead, for example, at page 2, lines 27-30, and 8, lines 5-6. No disclosure of pressurizing any other apparatus is disclosed or suggested by Appellants. Ass claimed, ***the printhead is pressurized***.

Because neither Lin nor Kimura, alone or in combination, disclose or suggest ***pressurizing a printhead*** to force a stream of ink through discharge jets of the printhead, ***as admitted by the Examiner***, the combination of references does not disclose or suggest every feature of any of claims 1, 12, or 22. The Examiner has failed to present a *prima facie* case of obviousness against claims 1, 12, and 22.

3. Claims 2, 3, 6-11, 13-21, 23, and 24 under 35 U.S.C. 103(a) over Lin in view of Kimura and Ishiguro

Claims 2, 3, 6-11, 13-21, 23, and 24 are rejected under 35 U.S.C. 103(a) over Lin in view of Kimura as above, and further in view of Ishiguro (JP 09-001827). Claims 1, 12, and 22 are independent, all other claims depending therefrom. The Examiner has failed to present a *prima facie* case of obviousness for at least the following reasons.

As discussed in the responses filed 23 May 2006, 28 September 2006, and 27 February 2007, the Pre-Appeal Brief filed 28 June 2007, and the Appeal Brief filed 25 September 2007, as well as above with regard to the rejection of claims 1, 12, and 22, Lin does not disclose or suggest moving of

either the front or backside printhead to a non-printing position, priming of a printhead, or pressurizing a printhead. Again, this was admitted by the Examiner.

As further discussed in the previous responses listed above, as well as herein with regard to the rejection of claims 1, 12, and 22, Kimura does not apply pressure directly to the printhead. Instead, Kimura applies pressure to the control tank to provide pressurized ink, as admitted repeatedly by the Examiner.

Ishiguro is directed to a printing device wherein the maintenance station is small, performing multiple functions in the same space. As described in paragraph 0014, the maintenance station includes an aspiration pipe 6 comprising a hollow tube 12 with holes 10 therethrough, wherein the tube is covered with a foam 7 which is in contact with the printhead when maintenance is performed. During maintenance, at least the foam is rotated to first clear foreign matter from the nozzles of the printhead (paragraph 0013). Then, ***suction*** is generated through the aspiration pipe 6 which acts through the porous foam 7 ***to suck ink from*** the nozzles of the printhead (paragraph 0014). Ishiguro does not disclose or suggest pressurizing the printhead to push out debris, as claimed by Applicants. Instead, Ishiguro ***applies suction externally*** to the printhead ***to pull out*** ink from the printhead nozzles. Thus, Ishiguro does not overcome the deficiencies of Lin or Kimura.

Appellants note in the Office Action of 17 March 2008, Ishiguro is relied on for teaching movement of the printhead from a printing position to a priming position. In the Final Office Action of 16 May 2007, page 5, the Examiner admits Ishiguro discloses "priming is done by using the suction on the nozzle instead of using positive pressure on the ink to force the ink."

As admitted by the Examiner's own statements, the combination of Lin, Kimura, and Ishiguro does not teach, disclose, or suggest all the features of the claimed invention, in particular, a priming position where ***the printhead is pressurized*** to a prime pressure sufficient to force a stream of ink through discharge jets of the printhead. No reference or combination of references being presented that teaches, discloses, or suggests pressurizing the printhead as required in all rejected claims, a *prima facie* case of obviousness has not been made.

4. Claims 4 and 5 under 35 U.S.C. 103(a) over Lin in view of Kimura, Ishiguro, and Watanabe

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) over Lin in view of Kimura and Ishiguro as above, and further in view of Watanabe (EP 435276). The Examiner has failed to present a *prima facie* case of obviousness for at least the following reasons.

Claim 5 depends from claim 4, which in turn depends from claim 2, the rejection of which over Lin in view of Kimura and Ishiguro is addressed above. The subject matter of claims 4 and 5 is not taught, disclosed, or suggested in view of the combination of Lin, Kimura, and Ishiguro for at least the same reasons.

Watanabe is directed to a recording unit cartridge, whereby all or a portion of a full-width recording unit can be easily replaced within a printing apparatus. Within the recording unit, the printhead can be moved from a printing to a recovery position, wherein the printhead is activated to print an all ink image, such that the ink is ejected into a reservoir. See col. 9, lines 11-17 and 27-33. Watanabe does not disclose or suggest pressurizing the printhead to remove dried ink or debris. Watanabe thus does not overcome the deficiencies of Lin in view of Kimura and Ishiguro because Watanabe does not teach, disclose, or suggest at least a printhead having a priming position where ***the printhead is pressurized*** to a prime pressure sufficient to force a stream of ink through discharge jets of the printhead.

No reference or combination of references has been presented that teaches, discloses, or suggests pressurizing the printhead as required in claims 4 and 5. Therefore, a *prima facie* case of obviousness has not been made.

Summary

The Examiner admits neither Lin nor Kimura teach pressurizing a printhead. The Examiner further admits Ishiguro teaches using vacuum or suction external to the printhead to remove debris. Watanabe merely teaches printing to clear the printhead. Thus, no reference alone, or in combination with any other reference, teaches, discloses, or suggests ***pressurizing a printhead*** to eject

pressurized ink. Contrary to the Examiner's comments, Appellants claims are directed to a pressurized printhead, wherein the pressure is applied directly to the printhead. No other interpretation of Appellants' claims is logical. No *prima facie* case of obviousness over any claim having been made, reversal of all rejections is in order.

Conclusion

For the above reasons, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the rejections of the Examiner and mandate the allowance of Claims 1-24.

Respectfully submitted,

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Enclosures

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

Appendix I - Claims on Appeal

1. (original) A printing apparatus comprising:

a printing section adapted to print images on photographic media; and

an automatic backprinting assembly adapted to print information on a back side of photographic media;

said automatic backprinting assembly comprising a movable ink jet printhead which is movable between at least a printing position to print on the back side of the photographic media and a priming position where the printhead is pressurized to force a stream of ink through discharge jets of the printhead.

2. (original) A printing apparatus according to claim 1, wherein said automatic backprinting assembly further comprises:

an enclosure having an opening positioned so as to face the discharge jets of said printhead when said printhead is in said priming position, said enclosure being adapted to catch the stream of ink that is forced through the discharge jets of the printhead.

3. (original) A printing apparatus according to claim 2, wherein a wiper pad is positioned at an end of a wall of said enclosure, said wiper pad being adapted to wipe a discharge jet end of said printhead when said printhead moves from said priming position to said printing position so as to remove excess ink from said printhead.

4. (original) A printing apparatus according to claim 2, further comprising a removable ink tray, wherein said printhead and said enclosure are mounted on said ink tray and said ink tray is movable between a non-operative position located partially outside of said printing apparatus and an operative positive located within said printing apparatus.

5. (original) A printing apparatus according to claim 4, wherein an absorbent material is provided on a surface of said ink tray and within said enclosure.

6. (original) A printing apparatus according to claim 3, wherein said wiper pad is formed from a material which has little or no loose fibers.

7. (original) A printing apparatus according to claim 1, wherein said printhead is provided on a rotary moving device which is adapted to rotate the printhead between said printing position and said priming position.

8. (original) A printing apparatus according to claim 1, wherein said printhead is mounted on a pivoting device which is adapted to pivot said printhead between said printing position and said priming position.

9. (original) A printing apparatus according to claim 7, wherein said rotary moving device has a center of rotation which causes the printhead to

translate away from the backside of said media as soon as rotary motion of said printhead is initiated.

10. (original) A printing apparatus according to claim 8, wherein said pivoting device is adapted to cause the printhead to translate away from the backside of said media as soon as a pivoting motion of said printhead is initiated.

11. (original) A printing apparatus according to claim 1, wherein said printhead is adapted to provide at least alphanumeric information on the backside of said media.

12. (original) A backprinting assembly adapted to print information on a backside of photographic media, the backprinting assembly comprising:

a movable ink jet printhead which is movable between at least a printing position to print on the backside of the photographic media and a priming position where the printhead is pressurized to force a stream of ink through discharge jets of the printhead.

13. (original) A backprinting assembly according to claim 12, further comprising:

an enclosure having an opening positioned so as to face the discharge jets of said printhead when said printhead is in said priming position,

said enclosure being adapted to catch the stream of ink that is forced through the discharge jets of the printhead.

14. (original) A backprinting assembly according to claim 13, wherein a wiper pad is positioned at an end of a wall of said enclosure, said wiper pad being adapted to wipe a discharge jet end of said printhead when said printhead moves from said priming position to said printing position so as to remove excess ink from said printhead.

15. (original) A backprinting assembly according to claim 13, further comprising an ink tray, wherein said printhead and said enclosure are mounted on said ink tray.

16. (original) A backprinting assembly according to claim 15, wherein an absorbent material is provided on a surface of said ink tray and within said enclosure.

17. (original) A backprinting assembly according to claim 14, wherein said wiper pad is formed from a material which has little or no loose fibers.

18. (original) A backprinting assembly according to claim 12, wherein said printhead is provided on a rotary moving device which is adapted to rotate the printhead between said printing position and said priming position.

19. (original) A backprinting assembly according to claim 12, wherein said printhead is mounted on a pivoting device which is adapted to pivot said printhead between said printing position and said priming position.

20. (original) A backprinting assembly according to claim 18, wherein said rotary moving device has a center of rotation which causes the printhead to translate away from the backside of said media as soon as rotary motion of said printhead is initiated.

21. (original) A backprinting assembly according to claim 19, wherein said pivoting moving device is adapted to cause the printhead to translate away from the backside of said media as soon as a pivoting motion of said printhead is initiated.

22. (original) A method of providing information on a backside of photographic media during a photographic printing process, the method comprising the steps of:

inserting photographic media into a photographic printer;

printing an image onto a frontside of the photographic media;

backprinting information onto a backside of the media by positioning a printhead in a printing position and directing ink from said printhead onto the backside of said media;

moving the printhead from said printing position after a predetermined period of time to a priming position where discharge jets of said printhead face an enclosure;

pressurizing said printhead while in said priming position to force a stream of ink through the discharge jets of the printhead and into said enclosure; and

moving said printhead back to said printing position.

23. (original) A method according to claim 22, further comprising:

wiping a discharge jet end of said printhead when said printhead moves from said priming position to said printing position so as to remove excess ink from said printhead.

24. (original) A method according to claim 22, wherein said step of moving said printhead from said printing position to said priming position comprises translating said printhead away from the backside of said media as soon as motion of the printhead is initiated.

Appendix II - Evidence

NONE

Appendix III – Related Proceedings

NONE